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**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Second Amended Accusation
Against:

RICHARD SCOTT WRIGHT, P.T.
969 Sugarbush Drive
Vista, CA 92084

Physical Therapist License No. PT9924

Respondent.

Case No. 1D-2005-64252

OAH No. L-2006110021

SECOND AMENDED ACCUSATION

Complainant alleges:

PARTIES

1. Steven K. Hartzell (Complainant) brings this Second Amended Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California, Department of Consumer Affairs.

2. On or about September 12, 1980, the Physical Therapy Board of California issued Physical Therapist License No. PT9924 to RICHARD SCOTT WRIGHT, P.T. (Respondent). The Physical Therapist License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2007, unless renewed.

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JURISDICTION

3. This Second Amended Accusation is brought before the Physical Therapy Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2609 of the Code states:

“The board shall issue, suspend, and revoke licenses and approvals to practice physical therapy as provided in this chapter.”

5. Section 2620 of the Code states:

“Physical Therapy means the art and science of physical or corrective rehabilitation or of physical or corrective treatment of any bodily or mental condition of any person by the use of the physical, chemical, and other properties of heat, light, water, electricity, sound, massage, and active, passive, and resistive exercise, and shall include physical therapy evaluation, treatment planning, instruction and consultative services. The practice of physical therapy includes the promotion and maintenance of physical fitness to enhance the bodily movement related health and wellness of individuals through the use of physical therapy interventions. The use of roentgen rays and radioactive materials, for diagnostic and therapeutic purposes, and the use of electricity for surgical purposes, including cauterization, are not authorized under the term ‘physical therapy’ as used in this chapter, and a license issued pursuant to this chapter does not authorize the diagnosis of disease.

6. Section 2620.7 of the Code states, in pertinent part:

“(a) A physical therapist shall document his or her evaluation, goals, treatment plan, and summary of treatment in the patient record.

“(b) A physical therapist shall document the care actually provided to a patient in the patient record. . . .”

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1 7. Section 2660 of the Code states:

2 “The board may, after the conduct of appropriate proceedings under the
3 Administrative Procedure Act, suspend for not more than 12 months, or revoke, or
4 impose probationary conditions upon any license, certificate, or approval issued
5 under this chapter for unprofessional conduct that includes, but is not limited to,
6 one or any combination of the following causes:

7 “ . . .

8 “(h) Gross negligence in his...practice as a physical therapist...

9 “(i) Conviction of a violation of any of the provisions of this chapter or of
10 the State Medical Practice Act, or violating, or attempting to violate, directly or
11 indirectly, or assisting in or abetting the violating of, or conspiring to violate any
12 provision or term of this chapter or of the State Medical Practice Act.

13 “ . . .

14 “(l) The commission of any fraudulent, dishonest, or corrupt act which is
15 substantially related to the qualifications, functions, or duties of a physical
16 therapist or physical therapy assistant.

17 “ . . .

18 “(n) The commission of verbal abuse or sexual harassment.”

19 8. Section 726 of the Code states, in pertinent part:

20 “The commission of any act of sexual abuse, misconduct, or relations with
21 a patient, client, or customer constitutes unprofessional conduct and grounds for
22 disciplinary action for any person licensed under this division, under any initiative
23 act referred to in this division and under Chapter 17 (commencing with Section
24 9000) of Division 3.”

25 “...”

26 9. Section 2660.1 of the Code states in pertinent part a patient “is
27 conclusively presumed to be incapable of giving free, full, and informed consent to any sexual
28 activity which is a violation of Section 726.”

1 10. Section 2266 of the Code states:
2 “The failure of a physician and surgeon to maintain adequate and accurate records
3 relating to the provision of services to their patients constitutes unprofessional
4 conduct.”
5 11. Section 2263 of the Code states:
6 “The willful, unauthorized violation of professional confidence constitutes
7 unprofessional conduct.”
8 12. California Code of Regulations, Title 16, Section 1399.20, states, in
9 pertinent part:
10 “For the purposes of denial, suspension or revocation of a license, pursuant to
11 Division 1.5 (commencing with Section 475) of the code, a crime or act shall be
12 considered to be substantially related to the qualifications, functions or duties of a person
13 holding a license under the Physical Therapy Practice Act if to a substantial degree it
14 evidences present or potential unfitness of a person to perform the functions authorized
15 by the license or approval in a manner consistent with the public health, safety or welfare.
16 Such crimes or acts shall include but not be limited to the following:
17 “(a) Violating or attempting to violate, directly or indirectly, or assisting in or
18 abetting the violation of, or conspiring to violate any provision or term of the Physical
19 Therapy Practice Act.
20 “...
21 “(c) Violating or attempting to violate any provision or term of the Medical
22 Practice Act.”
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1 **COST RECOVERY**

2 13. Section 2661.5 of the Code states, in pertinent part:

3 “In any order issued in resolution of a disciplinary proceeding before the
4 board, the board may request the administrative law judge to direct any licensee
5 found guilty of unprofessional conduct to pay to the board a sum not to exceed the
6 actual and reasonable costs of the investigation and prosecution of the case.”

7 “...”

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Sexual Misconduct)**

10 14. Respondent is subject to disciplinary action under Code sections 726,
11 2660 (l), and 2660.1, in that he committed sexual misconduct and corrupt acts in his care and
12 treatment of patient X. as follows:

13 A. On or about September 9, 2003, female patient X, began
14 physical therapy treatment with Respondent. She had been referred to Respondent
15 by her dental hygienist. Respondent agreed to take cash payments of \$35.00 per
16 visit for treating patient X.

17 B. Respondent began treating patient X without having a
18 prescription or order for treatment.

19 C. Respondent also failed to obtain a medical diagnosis prior to
20 treatment; and failed to perform an evaluation and history on her.

21 D. In or about January 2004, patient X sensed that Respondent
22 started to have significant feelings for her as he spent more time with her. They
23 started to discuss their marriages and the differences between men and women.
24 Respondent began to treat patient X for longer and longer periods of time, often
25 for close to two hours, and often over the lunch hour when no staff nor patients were
26 present in the office.

27 E. Respondent hugged and kissed patient X during numerous
28 office visits. These actions were observed by Respondent’s employees.

1 F. In or about March 2004, Respondent kissed the back of
2 patient X's hand while he was working on her shoulder. She told him, "No."

3 G. In or about April 2004, Respondent asked patient X to go to
4 lunch or dinner after one of her treatments. Patient X declined the invitation. On
5 or about April 4 or 6, 2004, Respondent kissed patient X on the lips.

6 H. In or about May 2004, Respondent again kissed patient X. Patient
7 X told Respondent that her husband was a jealous man and very possessive. After this
8 kiss, Respondent did not pursue patient X again.

9 I. Patient X's last office visit was on May 19, 2004. However,
10 there is no notation for this visit in the chart. On this last visit, Respondent's wife
11 entered the treatment room while Respondent was treating patient X and began
12 arguing with Respondent. Respondent's employees had called Respondent's wife
13 about the relationship between Respondent and patient X. That evening,
14 Respondent's wife called patient X at her home threatening and insulting patient
15 X, stating that Respondent had admitted to pursuing a relationship with patient X.
16 and stating she was going to report the matter to the church leaders.

17 Respondent's Interview:

18 J. On August 31, 2005, Respondent was interviewed in the
19 Field Office. During the interview, Respondent made several admissions.

20 K. Respondent admitted he was treating patient X without
21 having an order, a referral, a prescription or a diagnosis from any other medical
22 practitioner.

23 L. Respondent admitted to kissing patient X during several
24 treatment sessions.

25 M. Respondent admitted to having "fallen in love" with patient X

26 N. Respondent admitted discussing his marriage with patient X.

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1 O. Respondent admitted that even though patient X had
2 expressed not wanting to get into a relationship, he ignored her wishes and
3 pursued her further.

4 P. Respondent admitted that he had not documented all of his
5 care and treatment of patient X.

6 15. Respondent has committed acts or omissions constituting sexual abuse and
7 misconduct in violation of Section 726 and corrupt acts in violation of Section 2660, during the
8 care and treatment of patient X., in that:

9 A. Respondent crossed professional boundaries in his
10 treatment of patient X.

11 B. Respondent inappropriately hugged and kissed patient X.

12 C. Respondent inappropriately discussed his marriage with X.

13 D. Respondent inappropriately discussed X's marriage with her.

14 E. Respondent admitted to "falling in love" with patient X, yet
15 he still continued to treat her.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Sexual Harassment)**

18 16. Respondent is further subject to disciplinary action in that he committed
19 sexual harassment in violation of Section 2660 (n) during his care and treatment of patient X.

20 The circumstances are as follows:

21 A. Paragraphs 14 and 15, above, are incorporated by reference as if
22 realleged in their entirety herein.

23 B. Despite patient X informing Respondent his advances were
24 unwelcome, Respondent still continued to pursue her.

25 C. Respondent greeted patient X in inappropriate ways.

26 D. Respondent repeatedly made sexually inappropriate comments to
27 patient X indicating his desire to become personally involved with her.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct)**

3 17. Respondent is further subject to disciplinary action for unprofessional
4 conduct violation of Section 2660 during his care and treatment of patient X. Paragraphs 14
5 through 16, inclusive, are incorporated by reference as if realleged in their entirety herein.

6 **FOURTH CAUSE FOR DISCIPLINE**

7 **(Gross Negligence)**

8 18. Respondent is further subject to disciplinary action in that he committed
9 gross negligence in violation of Sections 2660 (h) and 2660 (i) during his care and treatment of
10 patient X as follows:

11 A. Paragraphs 14 through 16, inclusive, are incorporated by reference
12 as if realleged in their entirety herein.

13 B. Respondent committed multiple acts of sexual abuse and
14 misconduct with patient X.

15 C. Respondent admitted to falling in love with patient X yet he still
16 continued to provide physical therapy to her as a patient.

17 D. Respondent's wife entering the treatment session between
18 Respondent and patient X and being present thereafter violated the patient's right to
19 privacy.

20 E. Respondent's employees advising Respondent's wife of
21 information pertaining to patient X violated the patient's right to privacy.

22 F. Respondent treated patient X without having an order, a referral,
23 a prescription or a diagnosis from any other medical practitioner.

24 G. Respondent failed to obtain a medical diagnosis prior to
25 treatment.

26 H. Respondent failed to obtain copies of patient X's prior medical
27 records.

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- 1 I. Respondent failed to obtain or take x-rays of patient X.
2 J. Respondent failed to perform, or record performing, an evaluation
3 and history on patient X.

4 **SIXTH CAUSE FOR DISCIPLINE**

5 **(Failure to Maintain Adequate and Accurate Records)**

6 19. Respondent is further subject to disciplinary action on account of his
7 failure to maintain adequate and accurate records, in his treatment of patient X, in violation of
8 Business and Professions Code sections 2266 and 2620.7, in that he failed to document all of his
9 treatment sessions with, and treatment provided to, patient X.

10 **SEVENTH CAUSE FOR DISCIPLINE**

11 **(Violation of Professional Confidence)**

12 20. Respondent is further subject to disciplinary action for violating the
13 patient's confidence by discussing the patient with his wife and by his employees advising
14 Respondent's wife of information pertaining to patient X, in violation of Business and
15 Professions Code section 2263, as more fully alleged in paragraphs 14 through 18, inclusive,
16 which are incorporated by reference as if realleged in their entirety herein.

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1 **PRAYER**

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Physical Therapy Board of California issue a
4 decision:

5 1. Revoking or suspending Physical Therapist License Number PT9924,
6 issued to Richard Scott Wright, P.T.;

7 2. Ordering Richard Scott Wright, P.T. to pay the Physical Therapy Board of
8 California the reasonable costs of the investigation and enforcement of this case, pursuant to
9 Business and Professions Code section 2661.5;

10 3. Taking such other and further action as deemed necessary and proper.

11 DATED: August 22, 2007

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13 Original Signed By:
14 STEVEN K. HARTZELL
15 Executive Officer
16 Physical Therapy Board of California
17 Department of Consumer Affairs
18 State of California
19 Complainant

20 Wright, Richard-Second Amended Accusation.wpd
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